



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/171166

PRELIMINARY RECITALS

Pursuant to a petition filed January 06, 2016, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on February 04, 2016, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly determined the Petitioner's FoodShare allotment effective February 1, 2016.

NOTE: The record was held open until February 5, 2016, to give the Petitioner an opportunity to submit additional medical records. None were received by the designated deadline.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

█
█

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED] Income Maintenance Specialist Advanced
Milwaukee Enrollment Services
1220 W. Vliet St., Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.

2. On December 18 2015, the Petitioner called the agency to complete her renewal. (Exhibit 6, pg. 5)
3. On that same date, the Petitioner provided four pay stubs from a part-time job. Three stubs showed gross income of \$180.00 and one showed gross income of \$194.50. However, the dates of the checks were obscured when the agency scanned/copied them. (Exhibit 6, pgs. 24-31)
4. On December 24, 2015, the agency sent the Petitioner a notice, advising her that as of February 1, 2016, her FoodShare benefit would be reduced from \$194.00 per month to \$16.00 per month. (Exhibit 6, pgs. 13-19)
5. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on January 6, 2016. (Exhibit 1)
6. The Petitioner has a household of one person. (Exhibit 1, pg. 4)
7. The Petitioner receives \$842.00 per month in Social Security Disability Income. (Exhibit 6, pg. 20)
8. The Petitioner pays \$740 per month in rent and has a heating expense. (Exhibits 2 and 3)
9. The Petitioner did not report any excess medical expenses, at the time she completed her renewal on December 18, 2016. (Exhibit 6, pg. 5)

DISCUSSION

Petitioner's Monthly Income

The first step in determining eligibility for FoodShare benefits is determining **gross** household income. 7 CFR §273.9(a), *Emphasis added*

The Petitioner provided four pay stubs to the agency in December. (See Exhibit 6) The dates of those paystubs are unclear, because the copies cut off the dates. Looking at the paystubs provided by the Petitioner in Exhibit 5, it appears that the Petitioner was paid weekly. (See Exhibit 5)

Using the paystubs provided to the agency in December 2016, the calculation of Petitioner's gross earned income works out to be as follows:

$\$180.00 \times 3 = \$540.00 + \$194.50 = \734.50 total income earned over four weeks
 $\$734.50 \div 4 \text{ weeks} = \183.63 average weekly earned income
 $\$183.63 \times 4.3 \text{ average weeks per month} = \789.61 average monthly earned income.
(Use of a 4.3 week month is mandated by 7 C.F.R. 273.10(c)(2))

Thus, Petitioner's total household income worked out to be:

$\$789.61$ earned income
 $+\$842.00$ Social Security income

 $\$1631.61$ Total monthly income

Petitioner's Benefit Calculation

In calculating a household's FoodShare allotment, the following deductions are applied in determining the household's net income:

- (1) a standard deduction –

This is \$155 per month for a household of 1-3 people, 7 *CFR* § 273.9(d)(1):
 \$168 for four people
 \$197 for five people
 \$226 for six or more people

- (2) an earned income deduction - which equals 20% of the household's total earned income, 7 *CFR* § 273.9(d)(2);

For Petitioner this was: \$789.61 x 20% = \$157.92

- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, 7 *CFR* § 273.9(d)(3);

The Petitioner testified to having out of pocket medical expenses that are more than \$35 per month, including a \$40 co-pay for medications, and co-payments of \$174.00 and \$272.00 for doctor's visits. Unfortunately, the Petitioner did not provide documentation of these expenses. As such, none can be applied, at this time. If Petitioner has receipts or bills, she is strongly encouraged to provide them to the agency to see if they can be used to increase her FoodShare benefits going forward, in the future.

- (4) dependent care deduction for child care expenses, 7 *CFR* § 273.9(d)(4); and

The Petitioner did not report any of these expenses.

- (5) shelter and utility expenses deduction the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 *CFR* § 273.9(d)(5).

The standard utility allowances are as follows:

HSUA – Heating Standard Utility Allowance	\$458
LUA – Limited Utility Allowance	\$293
EUA – Electric Utility Allowance	\$119
WUA-Water and Sewer Utility Allowance	\$78
FUA- Cooking Fuel Allowance	\$46
PUA- Phone Utility Allowance	\$30
TUA – Garbage and Trash Utility Allowance	\$20

There is a cap of \$504.00 on the shelter cost deduction, *unless* a household has an elderly, blind or disabled member.

It is undisputed that the Petitioner is entitled to the full utility allowance of \$458.

FSH, §§ 4.6.7.1 and 8.1.3.

Applying the applicable deductions to Petitioner's income we have the following net income calculation, effective July 1, 2015:

Gross Income	\$1631.61	Rent	\$740.00
Earned Income Deduction	-\$157.92	HSU	+\$458.00
Standard Deduction	-\$155.00	-50% net income	-\$659.35
No Medical Expenses exceeding \$35		before shelter deduction	
No Dependent Care Expenses			
		Excess Shelter Expense:	\$538.65
<hr/>			
Net Income before shelter deduction	\$1318.69		
Excess Shelter Expense	-\$538.65		
<hr/>			
Net Income	\$780.04		

Households of one, with a net income of \$780.04 are eligible for Foodshare benefits in the amount of \$16.00 per month. *FSH §8.1.2*

Petitioner is again encouraged to provide them to the agency to see if they can be used to increase her FoodShare benefits going forward, in the future.

CONCLUSIONS OF LAW

The agency correctly determined the Petitioner's FoodShare benefits effective February 1, 2016.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

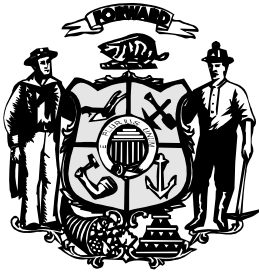
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 25th day of February, 2016

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on February 25, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability